

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Deployment of Wireline Services)	
Offering Advanced Telecommunications)	CC Docket No. 98-147
Capability)	

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REPLY COMMENTS OF NEXTLINK COMMUNICATIONS, INC.

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REPLY COMMENTS OF NEXTLINK COMMUNICATIONS, INC.

NEXTLINK Communications, Inc. ("NEXTLINK"), by its attorneys, hereby replies to the comments filed in response to the above-captioned Notice of Proposed Rulemaking.^{1/} While NEXTLINK remains concerned that the Commission's proposal for a separate advanced services affiliate does not sufficiently address the incentives for incumbent local exchange carriers ("ILECs") to discriminate against competitors,^{2/} these reply comments focus on the Commission's proposals to adopt uniform national standards for collocation and local loop unbundling and some of the more questionable ILEC objections to these proposals.

NEXTLINK believes that the best way for the Commission to speed the deployment of advanced data facilities and services is to promote competition in the market for advanced services, especially facilities-based competition. As with many ambitious goals, however, the devil is in the details. In particular, facilities-based competition will be delayed or even frustrated completely without rules that assure competitors collocation and reasonable access to

^{1/} Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 98-188 (rel. August 7, 1998) ("Section 706 NPRM").

^{2/} See NEXTLINK Comments at 2-12.

unbundled loops. Uniform rules will ensure that these critical building blocks are made available in a predictable and efficient manner. With different rules for each state, national carriers like NEXTLINK must refight the same battles across the country to obtain the basic elements they need to compete. The absence of uniformity also provides incumbent LECs with numerous opportunities to discriminate against their competitors, and, if they are permitted to establish separate data affiliates in the future, to favor those affiliates.^{3/}

For these reasons, NEXTLINK respectfully urges the Commission to adopt uniform standards for collocation and loop unbundling as further described below and in its initial comments.

I. COLLOCATION

Remote Collocation. In the Section 706 NPRM, the Commission proposed that incumbent LECs be required to provide competitive advanced service providers with access to collocation in remote terminals.^{4/} BellSouth responded that it “vigorously opposes” such a requirement because “[i]n most remote terminals, space is quite limited, and ILECs often will be required to deny requests for remote terminal collocation.”^{5/}

NEXTLINK agrees with the Commission that competitive providers should be permitted upon request to collocate their equipment at a remote switch in order to access loops served by that switch. NEXTLINK, however, believes that competitors should not be required to collocate

^{3/} The Commission has previously recognized that incumbent LECs “have an economic incentive to interpret regulatory ambiguities to delay entry by new competitors.” Local Competition Order, 11 FCC Rcd 15499 at ¶ 558 (1996).

^{4/} Section 706 NPRM at ¶¶ 167-176.

^{5/} BellSouth Comments at 49.

their equipment in remote terminals as the only means of accessing such loops. Collocation at a remote switching unit is often impossible due to space constraints and, given the limited number of loops that may be served by such a unit, can be uneconomical. As outlined in NEXTLINK's initial comments, there are alternative ways that competitive LECs can, and should be permitted to, obtain access to unbundled loops served by remote switches.^{6/} For example, ILECs can provide access to loops served out of a remote switching unit at the host central office. Accessing loops at the host central office is a more cost-efficient means of permitting competitive providers to offer advanced services to end user customers served by a remote switch.

NEXTLINK is surprised by BellSouth's claim in this proceeding that collocation at a remote switch is not technically feasible given BellSouth's recent statements in a state arbitration proceeding. For example, in rebuttal testimony pre-filed in an arbitration proceeding currently pending before the Tennessee Regulatory Authority, a BellSouth witness stated as follows:

Q. Is [NEXTLINK witness] Mr. Land correct in his allegation that many remote switches are too small or technically configured so that collocation is impossible?

A. No, he is not correct. As I stated in my direct testimony, BellSouth stands ready to provide collocation in any of its central offices, including remote switches. If space is not available for physical collocation, BellSouth will provide virtual collocation.^{7/}

^{6/} NEXTLINK Comments at 22-25.

^{7/} In re Petition of NEXTLINK TENNESSEE LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Tennessee Regulatory Authority Docket No. 98-00123, BellSouth Telecommunications, Inc. Rebuttal Testimony of Alphonso J. Varner at 37 (filed Aug. 6, 1998). BellSouth takes the position in this arbitration proceeding that all remote switches in Tennessee "are actual central offices" and that collocation at such remote switches is the "only viable method" by which a competitor can obtain access to loops served by such switches. In re Petition of NEXTLINK TENNESSEE LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Tennessee Regulatory Authority Docket No. 98-00123, BellSouth (continued on next page)

BellSouth's comments in this proceeding notwithstanding, the refusal of incumbent LECs like BellSouth to permit NEXTLINK to access unbundled loops served by remote switching units unless it collocates at the remote switch limits NEXTLINK's ability to compete.^{8/} The Commission should therefore clarify that collocation at a remote switch is not the only means by which a competitor may gain access to unbundled loops served by the remote switch. Instead, the incumbent LEC should be required to provide competitive carriers with access to unbundled loops, including multiplexing, cross-connects, and transport to the competitive LEC's collocation premises at the host central office of the remote switch. Such a policy will permit competitors to speed the deployment of advanced services and reach a greater number of end users in a more economic fashion.

The Commission should also require ILECs to provide competitors the option of collocating their equipment at remote switches where space is available. Moreover, if an ILEC contends that space is unavailable at a particular switching unit to permit collocation, it should bear the burden of affirmatively demonstrating that no such space is available.

Equipment Approval. The Commission tentatively concluded that incumbent LECs should be required to list all approved equipment and all equipment they use so that competitive

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Telecommunications, Inc. Direct Testimony of Alphonso J. Varner at 41-42 (filed July 28, 1998).

^{8/} The Tennessee Regulatory Authority recently ruled that NEXTLINK should not be required to collocate at the remote switch in order to get access to loops served by that switch because of the anticompetitive effects of such a collocation requirement. In re Petition of NEXTLINK TENNESSEE LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Tennessee Regulatory Authority Docket No. 98-00123, Transcript of Arbitration Ruling at 9, 35 (held October 6, 1998).

LECs can ascertain that they may collocate the same or equivalent equipment.^{9/} Bell Atlantic argues, however, that creating such lists would be “nearly impossible” because many items of equipment are available with a large number of varying and constantly-changing capabilities and the incumbent LEC would have to identify each variation as either approved or not approved.^{10/} SBC suggests that a more “measured targeted response” would be to “encourage negotiations on non-standard equipment in the context of disclosure by the ILEC of its non-standard compliant equipment in specific premises in response to a CLEC’s collocation application that includes the proposed placement of non-standard equipment.”^{11/}

NEXTLINK supports the Commission’s proposal that ILECs be required to list all approved equipment and all equipment that they use. ILECs should also be required to provide lists of approved equipment vendors. This information is critical to a competitor’s effort to obtain collocation at ILEC central offices. Collocation is an expensive and lengthy process. Competitors that have been denied physical collocation must contract with a vendor for virtual collocation. Because ILECs determine which vendors and equipment may be used in virtual collocation, they should have the obligation to share such information in a timely manner with competitive LECs. If no such information is provided, a competitor is relegated to blindly choosing a vendor and equipment, which may or may not be certified by the ILEC. When the competitor contracts with an uncertified vendor, the vendor must go through a lengthy ILEC certification process with no assurance of success. Lack of information regarding certified

^{9/} Section 706 NPRM at ¶ 134.

^{10/} Bell Atlantic Comments at 39-40. See also SBC Comments at 19-20 (arguing that keeping lists of approved equipment would be too costly).

^{11/} SBC Comments at 20.

vendors and equipment creates the potential for the incumbent to impose additional delay and unnecessary costs upon the competitor. Incumbents' claims regarding the administrative burdens associated with providing vendor and equipment information are therefore far outweighed by the competitive benefits that result from quicker market entry and more rapid deployment of advanced services by competitive LECs facilitated by timely access to such information.

Tours of Incumbent LEC Premises. A number of ILECs object to the Commission's proposal to allow competitors to tour ILEC premises when an ILEC denies a request for physical collocation on the basis of space limitations.^{12/} NEXTLINK, however, has found tours of incumbent LEC premises to be extremely helpful. For example, as a result of action by the Washington Utilities and Transportation Commission, competitive LECs were allowed to tour several of US WEST's central offices.^{13/} This tour enabled the competitive LECs to identify space that could reasonably be made available for physical collocation through consolidation of equipment, reduction of storage and administrative space, use of space reserved for future use, and the removal of obsolete equipment.

NEXTLINK has found that tours of central office premises are a critical supplement to the ILEC's statutory requirements to submit floor plans to state commissions after having denied a competitive provider physical collocation space. NEXTLINK supports the Commission's conclusion that in the event the parties disagree over the availability of space after a premises tour, the state commission should determine whether the ILEC should be required to provide

^{12/} See, e.g., BellSouth Comments at 47; Cincinnati Bell Comments at 25-26.

^{13/} See In the Matter of MFS Communication Company Inc.'s Petition for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Interconnection Rates, Terms and Conditions with US WEST Communications, Inc., Washington Utilities and Transportation Commission Docket Nos. UT- (continued on next page)

physical collocation. In addition, the Commission should impose a 45 day “resolution window” within which the state commission must resolve such a dispute.

GTE and SBC also argue that competitors should not have a right to tour ILEC premises, but they agree that inspections by third-parties should be permitted.^{14/} NEXTLINK believes that third-party inspection would be an acceptable compromise, as long as the process for selecting the third-party inspector is carefully structured to ensure that the parties agree on an inspector within a specific timeframe, so that the inspection process does not provide an additional opportunity for delay. Representatives of both the incumbent LEC and the competitive LEC should be allowed to accompany the third-party inspector.

Collocation Intervals. The Commission asked for comment on whether it should set specific intervals by which time the incumbent LEC must provide the competitive LEC with information on collocation availability and prices and furnish the competitive LEC with collocation space.^{15/} Several incumbent LECs argue that the Commission should not adopt uniform national collocation intervals, but should leave such issues to the states to resolve through arbitration or negotiation.^{16/} Many states, however, have not adopted standard collocation intervals and even where such intervals are in place either through arbitration or negotiation, there is great disparity between states. For example, the physical collocation intervals to which US WEST has committed in its interconnection agreements with NEXTLINK

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960323, UT 960326, and UT-960337.

^{14/} GTE Comments at 72; SBC Comments at 29.

^{15/} Section 706 NPRM at ¶ 144.

^{16/} See, e.g., Bell Atlantic Comments at 43; Ameritech Comments at 45-46; BellSouth
(continued on next page)

range from 90 days in Arizona and Utah to 150 days in Colorado. NEXTLINK has experienced similar disparities in collocation intervals from ILEC to ILEC. There is simply no reasonable justification for such variances in collocation intervals from ILEC to ILEC and from state to state -- particularly state-to-state variations by a single ILEC. To provide competitive LECs with a minimum level of protection, the Commission should adopt uniform national collocation intervals, which may be modified by the states if required in specific circumstances.

NEXTLINK's experience reveals that even in states with proactive commissions, without specific rules, deadlines, and penalties for non-compliance, incumbent LECs have no incentive to provide collocation in a timely manner. In such states, NEXTLINK and other competitive LECs remain stymied by ILEC intransigence. As NEXTLINK outlined in its initial comments, adoption of uniform collocation standards would encourage the deployment of advanced services by increasing predictability and speed to market and thus would facilitate the entry of national facilities-based competitors like NEXTLINK.

II. LOCAL LOOP REQUIREMENTS

Loop Information. In the Section 706 NPRM, the Commission sought comment on the type of loop information that is currently available to incumbent LECs and tentatively concluded that competitive LECs should have access to the same electronic interfaces that are available to incumbent LECs to obtain loop information.^{17/} While most incumbent LECs responded in some form to the Commission's request for information, NEXTLINK is concerned that not all of the ILECs were completely forthcoming. Instead of providing general information on the type of

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Comments at 46; GTE Comments at 75; SBC Comments at 29; US WEST Comments at 36.

loop information that is currently available, the incumbent LECs chose to respond to the Commission's broad and general questions in a narrow fashion by denying that they have a particular form or method of accessing information.

For example, while Ameritech states that competitors can access its operational support systems ("OSS") for "pre-ordering, ordering, provisioning, maintenance and billing of unbundled loops," including xDSL-compatible loops, Ameritech claims that it does not have a "database" that provides the information needed to determine whether or not it will provision an ADSL- or HDSL-compatible loop and argues that it should not be compelled to create such a database.^{18/} Ameritech admits that a "loop inventory database" exists, but it contends that access to this database should not be required because the database is "only one part of the overall loop assignment and provisioning process."^{19/} Because the assessment of loop availability also requires "human engineering knowledge and experience," Ameritech argues that providing access to the database alone would provide competitors with incomplete and potentially misleading information.^{20/}

Bell Atlantic argues that incumbent LECs should not be required to disclose detailed information about ILEC loops where the ILECs do not collect the information for themselves,

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^{17/} Section 706 NPRM at ¶ 158.

^{18/} Ameritech Comments at 16.

^{19/} Id.

^{20/} Id. See also GTE Comments at 82 (explaining that loop inventory systems are not perfect and a prior physical evaluation of any loop is required to ensure it will support advanced data services).

yet fails to explain what types of loop information it collects.^{21/} Bell Atlantic also claims that providing information on individual loops will not enable competing carriers to determine if a loop is capable of supporting advanced services, because there are factors not reflected in “readily-available information” that will affect a loop’s suitability for a particular advanced service.^{22/} BellSouth likewise argues that information about loop characteristics would never be reliable because of constant changes.^{23/}

NEXTLINK is not asking that incumbent LECs be required to create separate loop databases for the use of competitors. Rather, NEXTLINK seeks access only to the same loop information in the same manner and time frame that ILECs or their affiliates can access such information, now and as new systems are developed in the future. Unfortunately, the ILECs in this proceeding have decided to focus narrowly on the types of information and systems that they lack, instead of freely providing information on the type of loop infrastructure information and tracking systems currently available. NEXTLINK finds it difficult to believe that incumbent LECs cannot provide the proposed information, albeit in different forms. For example, in partial settlement of issues in its pending arbitration with NEXTLINK in Tennessee, BellSouth has agreed to provide NEXTLINK with information twice a year on a central office by central office

^{21/} Bell Atlantic Comments at 45-46. See also BellSouth Comments at 48 (arguing that ILECs should not be required to compile comprehensive information about local loop conditions or the ability of a particular loop to handle DSL service because it would be an “administrative nightmare”); Cincinnati Bell Comments at 29-30 (claiming that ILECs do not have real time access to information about the ADSL-capability of a particular loop and should not be required to provide such information to competitors).

^{22/} Id. See also SBC Comments at 30 (explaining that one record essential for understanding a specific loop’s characteristics is the “loop make-up,” which often is not available in any electronic system and must be accessed manually “using cable maps in engineering”).

^{23/} BellSouth Comments at 48.

basis regarding the location of loops available over Integrated Digital Loop Carrier (“IDLC”) or Next Generation Digital Loop Carrier (“NGDLC”), when available, and the location of IDLC-delivered loops for which no alternative facility currently exists. As an initial matter, the Commission should require the incumbent LECs to document how they track the informational and operational characteristics of their own loops for their own internal purposes, what types of characteristics they track, and what systems they are developing for tracking such data in the future.

Most incumbent LECs also failed to disclose the type or form of information they provide or will provide to their advanced services affiliates. It is vital for the Commission to require incumbent LECs to disclose the information that they are providing or will be providing to an advanced services affiliate. Generalized claims by the incumbent LECs that they are providing “equivalent” access to information are not sufficient to allow the Commission or CLECs themselves to determine whether CLECs are being treated unfavorably.^{24/} The Commission should ensure that loop information is not made available to an incumbent LEC’s advanced services affiliate unless and until the same information is made available to competitors.

CONCLUSION

As set forth above and in NEXTLINK’s comments in this proceeding, the Commission should adopt national collocation rules in order to remove barriers to entry and speed the deployment of advanced services. The Commission should also adopt NEXTLINK’s

^{24/} Ameritech simply states that it does not provide “direct access” to its loop inventory database to its data affiliate and that it provides CLECs with equivalent access to its OSS. Ameritech Comments at 16. BellSouth denies compiling information about loop conditions, but then states that, to the extent BellSouth has compiled such information, it will make it available to competitors upon request. BellSouth Comments at 49.

suggestions for improving the ability of new entrants to gain access to loops necessary to provide advanced services.

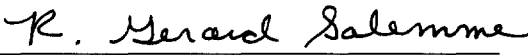
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